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Nelson Angelo Piquet v. Federal Government - National Treasury

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27/10/2025 5 days ago

Publication

extracted from the Federal Regional Court of the 3rd Region - Pages without numbering.
UNIQUE NUMBER: 5009763-53.2025.4.03.6301

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ACTIVE PARTY

NELSON ANGELO PIQUET

LAWYER (or LAWYERS)

THIAGO MATOS XAVIER | 346389/
SP JULIANA CRISTINA DE GODOY ARRIAGADA |
375491/SP AVAILABILITY DATE: 2025-10-27T00:00:00
PUBLICATION DATE: 2025-10-28T00:00:00
JUDICIAL BRANCH 11th Court JEF Office of São Paulo Avenida Paulista, 1345, Bela Vista, São Paulo - SP - CEP: 01310-100 https://www.trf3.jus.br/balcao-virtual SPECIAL CIVIL COURT PROCEDURE (436) No. 5009763-53.2025.4.03.6301 AUTHOR: NELSON ANGELO PIQUET ATTORNEY for the PLAINTIFF: JULIANA CRISTINA DE GODOY ARRIAGADA - SP375491 ATTORNEY for the PLAINTIFF: THIAGO MATOS XAVIER - SP346389 DEFENDANT: FEDERAL UNION - NATIONAL TREASURY TYPE A JUDGMENT Having reviewed the case. This is an action filed by NELSON ANGELO PIQUET against the Union, seeking to compel the defendant to pay compensation for material damages in the amount of R$ 4,830.35. The plaintiff states that he traveled to the United States of America and, upon...
Upon returning to Brazil on June 8, 2024, his luggage was inspected by Customs at Guarulhos International Airport, during which a Customs Agent allegedly damaged an imported Tom Ford Jasmin Rouge perfume, valued at R$ 4,830.35. He claims that the incident was recorded in the Goods Retention Report No. 081760024035579TRB01, drawn up by the customs officials themselves, and that, after the event, he submitted a request for reimbursement to the Federal Revenue Service.
Brazil, which was rejected on the grounds that the damage resulted from the sole fault of
The traveler, who allegedly packed the perfume "among his clothes, loose and outside its original packaging," making it impossible to foresee that it was a fragile item. The Union, in its defense, alleges that there is no liability, since the Federal Revenue Service itself verified, through video footage, that the perfume was poorly packed, loose, outside its packaging, and among clothes, constituting the plaintiff's exclusive fault and breaking the causal link. It argues that the agent acted regularly in the exercise of customs police power, without abuse or excess. Subsidiarily, it argues that the plaintiff did not prove the value of the damage, presenting only an internet link, without an invoice or proof of purchase, which makes it impossible to determine the amount of compensation. It therefore requests that the action be dismissed. Reply attached in id. 374087150. This is the brief report. I decide. Without preliminary matters, I proceed to address the merits.
The issue is to determine whether the Union is liable in relation to the narrated event. Indeed, the 1988 Federal Constitution imposes on
The State has a duty to compensate for damages caused to third parties by its employees, regardless of proof of intent or negligence (Article 37, § 6: Public legal entities and private legal entities providing public services shall be liable for damages that
its agents, in that capacity, cause harm to third parties, ensuring the right of recourse against the responsible in cases of intent or negligence). Consequently, the objective civil liability of the State has as its first premise (i) damage; not being satisfied with a mere diminution.
of property, since legal damage is required, that is, injury to an actual right of the victim, causing an undue reduction of their assets; furthermore, although it may be current or future, the damage must be at least certain. It is also required that this damage result from (ii) an act of commission by a specific public agent acting in that capacity (official of the

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activity) and/or even omission. Although some legal scholars argue that the act must be illegal for objective liability to be established, administrative conduct does not necessarily have to be unlawful; an act devoid of unlawfulness is considered unlawful or liable for liability, provided it causes damage and has a causal relationship. The third requirement concerns (iii) the causal link, that is, the cause-and-effect relationship between the action or omission and the eventus damni, based not on an analysis of the equivalence of causal antecedents (as in criminal law), but on the theory of direct and immediate damage, also called the theory of interruption of the causal link (Article 403 of the Civil Code, whose application is not restricted to subjective liability, see REsp 719.738/RS, Rapporteur Minister TEORI

ALBINO ZAVASCKI, FIRST PANEL, judged on 09/16/2008, DJe 09/22/2008). In the case under analysis, it remained undisputed that: (i) the plaintiff had his baggage inspected by customs officials at Guarulhos Airport; (ii) during the customs inspection, a perfume of
The author's property was damaged; (iii) the public agent himself acknowledged the damage in the Property Retention Report No. 081760024035579TRB01. See: Furthermore, the Union itself, in its
In an administrative statement, it expressly acknowledges the occurrence of the damage: "On June 8th
In 2024, Mr. Nelson Angelo Piquet disembarked at São Paulo International Airport, in Guarulhos-SP [...] During the customs inspection, the Tom Ford Jasmin Rouge 100ml perfume was damaged." (id. 357131693). Therefore, the three elements of objective liability are demonstrated, namely, (i) administrative conduct: customs inspection carried out by a public agent; (ii) damage: perfume damaged during the inspection; and, finally, (iii) causal link: the

The damage occurred during and as a result of the inspection activity. The Union alleges sole fault on the part of...
The victim's claim of exclusive fault, arguing that the perfume was improperly packaged in the luggage (loose, outside its packaging, among clothes), maintains that the plaintiff caused the damage by not adequately protecting the item. However, this argument does not hold water. To establish the exclusion of fault, solely attributable to the victim, it would be necessary to demonstrate that the damage resulted exclusively from the individual's actions, without any participation in the conduct.
of the state agent, completely breaking the causal link. Furthermore, the allegation that "it was not
"It being possible to foresee that there was a fragile object among the clothes" does not absolve the State of responsibility. When conducting a physical inspection of baggage, the possibility of there being a fragile object is inherent to the activity. fragile, valuable, or sensitive objects. The public official must conduct the inspection with the
The necessary care must be taken, otherwise the State will be held objectively liable for the damages caused. It should also be emphasized that the victim's exclusive fault would presuppose that the damage had...
resulting solely from the behavior of the individual, without any contribution from state conduct. In the case at hand, the damage was caused by the action of the public agent during the handling of baggage, in the exercise of customs inspection. Even if the perfume was
Without special packaging, the damage did not result from the packaging itself, but rather from the way it was handled. The agent handled the baggage during inspection. The causal link exists between the agent's conduct (handling the baggage) and the damage (breakage of the perfume). If the perfume were
broken before inspection, or if it had been damaged on its own due to
Inadequate packaging during transport might lead one to consider the victim solely at fault. However, the damage occurred during the inspection, due to an act by a public official, as per...
recognized by the Union itself. It can be seen, therefore, that in the present case, no fault has been demonstrated.

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The damage is solely the author's responsibility. What is clear is that the damage occurred during the course of inspection, and is attributable to the conduct of the public agent who, while handling the baggage, caused damage to the private property. Finally, the Union subsidiarily questions the value of the damage, alleging a lack of documentary evidence (invoice). However, the Union itself, in its administrative statement, did not present any concrete evidence to refute the value indicated by the author (R$ 4,830.35). On the contrary, it merely alleged generically the insufficiency of evidence, without, however, indicating a different value or presenting counter-evidence. In this context, and considering that the Union acknowledged the damage but did not specifically challenge the amount, the value indicated in the initial claim should prevail. DECISION In view of the foregoing, I RULE IN FAVOR of the plaintiff's claim against the UNION, and hereby order the UNION to compensate the plaintiff for the material damages suffered in the amount of R$ 4,830.35 (four thousand, eight hundred and thirty reais and thirty-five cents), which shall be adjusted for inflation and interest, from the date of this ruling. 08/06/2024, according to the indices foreseen in the Federal Court Calculation Manual. No costs or fees. Published and registered electronically. Notify. São Paulo, date of signature digital.

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ACTIVE PARTY

NELSON ANGELO PIQUET

LAWYER (or LAWYERS)

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11th Court JEF Office of São Paulo Avenida Paulista, 1345, Bela Vista, São Paulo - SP - CEP: 01310-100

https://www.trf3.jus.br/balcao-virtual SPECIAL CIVIL COURT PROCEDURE (436) No. 5009763-53.2025.4.03.6301

AUTHOR: NELSON ANGELO PIQUET

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ORDER Having reviewed the case. The plaintiff is hereby ordered to respond to the defense. Deadline: 15 days. After that, the case will be submitted for a decision.

Notify the parties. São Paulo, date of digital signature. GISELE BUENO DA CRUZ DE LIMA Judge Federal

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